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LETTER DATED 25 MARCH 1997 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to convey the attached communication, dated 23 March 1997, which I have received from the Principal Deputy High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina, Mr. Michael Steiner.

I should be grateful if you would bring it to the attention of the members of the Security Council.

(Signed) Kofi A. ANNAN

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Annex

Letter dated 23 March 1997 from the Principal Deputy High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina addressed to the Secretary-General

In its presidential statement of 11 March 1997 (S/PRST/1997/12) concerning the incident in Mostar on 10 February 1997, the Security Council of the United Nations demanded that the responsible authorities, notably in west Mostar, immediately implement the conclusions in my letter to Presidents Izetbegovic and Zubak of 24 February 1997 (S/1997/183, annex), drawn from the report of the United Nations International Police Task Force (IPTF) of the same date. In particular, the Security Council demanded that the authorities suspend all relevant police officers and arrest and prosecute them without delay. This concerned specifically the police officers Hrkac, Planinic and Peric who had been clearly identified in the IPTF report as firing at the backs of retreating visitors to the cemetery on Kneza Mihajla Humskog/former Liska Street. They were to be arrested, brought to trial before an independent and impartial court, and prosecuted to the full extent of the law. The Security Council decided to remain actively seized of the matter. Please be informed of the following latest developments.

1. On 20 March, five policemen were tried in summary proceedings at the Lower Court in west Mostar on charges of maltreatment by a public official related to the events of 10 February. Among these were Messrs. Hrkac, Planinic and Peric. The indictments referred only to article 54 of the Criminal Code of Bosnia and Herzegovina, which stipulates, "an official who in the discharge of duty maltreats another person, insults him or in general treats him in a manner offensive to human dignity shall be punished by imprisonment for a term of at least three months but not exceeding three years". Zeljko Planinic was sentenced to one year, Ivan Hrkac and Bozo Peric to six months in prison, but all three were given suspended sentences and left the court free men.

Under the Code of Criminal Procedure of Bosnia and Herzegovina, crimes in which the penalty is a fine or a sentence of less than three years may be tried in summary proceedings in which no preliminary judicial investigation is required. By indicting Planinic, Hrkac and Peric for this minor crime, the Public Prosecutor avoided judicial investigation of this case. Thus, the Prosecutor ensured that the proceedings did not address the fact that the events of 10 February, including the shooting by west Mostar policemen, resulted in the killing of one person and wounding of at last 20 persons, as established by the IPTF report.

In addition, observers from my office and IPTF monitored the 20 March trial itself. Their observations lead to the conclusion that the trial was seriously flawed in a number of ways, in particular the following:

(a) Criminal investigators as well as participants in the intended visit to the cemetery and victims of the violence which occurred were not questioned.

The only witnesses who testified before the court were the defendants themselves and their colleagues from the west Mostar police.

(b) The material evidence which was presented to the Court by the Public Prosecutor in the trial did not include the findings of the IPTF report, in particular the photographs of two of the defendants, Zi¡jko Planinic and Ivan Hrkac, firing at the backs of retreating marchers, even though IPTF had submitted its report to the judicial authorities of the Herzegovina Neretva Canton and the west Mostar police immediately after its publication.

(c) The Prosecutor did not use any of this readily available evidence to impeach the obvious perjury by all three officers that they were not armed.

These facts show that the legal proceedings had nothing in common with justice. They were not independent, impartial or properly announced to the public, in violation of article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and thereby article II.2 of the Constitution of Bosnia and Herzegovina. Prosecution of the three police officers to the full extent of the law did not take place, and justice has not been done.

2. Therefore, in a letter to the President and to the Vice-President of the Federation of Bosnia and Herzegovina of today, I have requested that the Federation Government ensure without delay correct legal proceedings based on a new indictment, founded in the facts, and that a proper criminal investigation of the suspects is undertaken.

At the same time, I have requested that the Lower Court in east Mostar not open parallel proceedings against the suspects or proceed with trials in absentia, in violation of international fair trail standards.

Finally, I raised the expectation that IPTF from now on will have complete access to any site, person, activity, proceeding or other item or event throughout the criminal investigation and legal proceedings, in accordance with Annex 11 of the Peace Agreement.

I should be most grateful to you if you could submit this letter to the members of the Security Council.

(Signed) Michael STEINER
Principal Deputy High Representative